

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

OLEG DERIPASKA,

Plaintiff,

v.

STEVEN T. MNUCHIN, Secretary of the
UNITED STATES DEPARTMENT OF
THE TREASURY, ANDREA M. GACKI,
DIRECTOR OF THE OFFICE OF
FOREIGN ASSETS CONTROL,

Defendants.

Civil Action No. 19-cv-00727 (APM)

JOINT MOTION FOR SCHEDULING ORDER

Plaintiff Oleg Deripaska and Defendants Steven T. Mnuchin, in his official capacity as Secretary of the United States Department of the Treasury, and Andrea M. Gacki, in her official capacity as Director of Treasury's Office of Foreign Assets Control ("OFAC"), jointly move for a scheduling order in this matter to set (1) a deadline for Defendants to file the administrative record, (2) a deadline for Plaintiff to amend his Complaint, and (3) a briefing schedule for dispositive motions.

On April 6, 2018, pursuant to Executive Orders 13661 and 13662, Defendants announced the placement of Plaintiff on the Specially Designated Nationals and Blocked Persons List ("SDN List") maintained by OFAC after determining that Plaintiff (1) has acted on or on behalf of, directly or indirectly, a senior official of the Government of the Russian Federation, and (2) operates in the energy sector of the Russian Federation economy. *See* Executive Order 13661 (authorizing Defendants to place persons who act on, or on behalf of, a senior official of the Government of the Russian Federation on the SDN List) and Executive Order 13662 (same for

persons operating in the energy sector of the Russian economy). Because of his placement on the SDN List, Plaintiff's property as well as his interests in property subject to U.S. jurisdiction are now "blocked."

On March 18, 2019, Plaintiff filed the instant Complaint contending that his placement by OFAC on the SDN List is arbitrary and capricious in violation of the Administrative Procedure Act, Compl. ¶¶ 60-65, and that Defendants failed to provide sufficient notice of the basis for his placement on the SDN List in violation of both the APA and his rights to due process under the Fifth Amendment, *id.* ¶¶ 66-79. Plaintiff also challenges Secretary Mnuchin's decision to include him among a list of Russian "oligarchs" that the Secretary provided to Congress pursuant to Section 241 of the Countering America's Adversaries Through Sanctions Act ("CAATSA"). Pub. L. No. 115-44, 131 Stat. 886 (2017) (requiring the Treasury Secretary to provide a report to Congress identifying oligarchs in Russia). Plaintiff alleges that Defendants' criteria for determining whether an individual is an "oligarch" for purposes of the Section 241 report is arbitrary and capricious in violation of the APA, and that Defendants have failed to provide adequate notice of the basis for their decision to include him in the Section 241 report in violation of his rights to due process under the Fifth Amendment. *Id.* ¶¶ 80-91.

Because Plaintiff brings an APA challenge to Defendants' decision to place him on the SDN List, Defendants intend to publicly file the administrative record containing the materials considered by Defendants in reaching this decision. On April 29, 2019, undersigned counsel informally provided a copy of the administrative record to Plaintiff's counsel. In response, Plaintiff's counsel has put Defendants on notice that Plaintiff may file an Amended Complaint now that he has received the administrative record.

After discussing the matter, and to allow sufficient time for Plaintiff to amend, the parties propose that the Court enter a scheduling order requiring Defendants to file the administrative

record on the public docket no later than May 21, 2019, and for Plaintiff to file any amendment to his Complaint within 30 days thereafter, or by June 20, 2019.

Defendants anticipate filing a combined motion to dismiss raising jurisdictional arguments along with a motion for summary judgment in response to the Complaint. The parties respectfully request that Defendants' time to respond to the Complaint, which is currently due on May 21, 2019, be extended and that Defendants be ordered to file their combined motion to dismiss and motion for summary judgment no later than July 19, 2019; that Plaintiff's opposition and cross-motion for summary judgment shall be due on or before August 19, 2019; that Defendants' reply shall be due on or before September 17, 2019, and that Plaintiff's reply shall be due on or before October 16, 2019.

A proposed order to this effect is attached herewith.

Dated: May 15, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

DIANE KELLEHER
Assistant Director

/s/ Nicholas Cartier
NICHOLAS CARTIER
Trial Attorney (DC Bar # 495850)
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave. NW
Washington, DC 20530
Tel: (202) 616-8351
Fax: (202) 616-8470
E-mail: Nicholas.Cartier@usdoj.gov

Counsel for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

OLEG DERIPASKA,

Plaintiff,

v.

STEVEN T. MNUCHIN, Secretary of the
UNITED STATES DEPARTMENT OF
THE TREASURY, ANDREA M. GACKI,
DIRECTOR OF THE OFFICE OF
FOREIGN ASSETS CONTROL,

Defendants.

Civil Action No. 19-cv-00727 (APM)

[PROPOSED] ORDER

Upon due consideration of the parties' Joint Motion for Scheduling Order, it is hereby ordered that the following scheduling order is entered:

- Defendants shall file the administrative record for the above-captioned matter on or before May 21, 2019;
- Plaintiff shall file any amendment to his Complaint on or before June 20, 2019;
- Defendants' response to Plaintiff's Complaint, which Defendants have indicated will be a combined motion to dismiss and motion for summary judgment, shall be due on or before July 19, 2019;
- Plaintiff's opposition to Defendants' combined motion to dismiss and motion for summary judgment, and Plaintiff's cross-motion for summary judgment shall be due on or before August 19, 2019;

- Defendants' opposition to Plaintiff's cross-motion for summary judgment, and Defendants' reply in support of their combined motion to dismiss and motion for summary judgment, shall be due on or before September 17, 2019;
- Plaintiff's reply in support of his cross-motion for summary judgment shall be due on or before October 16, 2019.

SO ORDERED.

Date: _____, 2019

HON. AMIT P. MEHTA
United States District Judge